

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Arthur R. Halbritter, et al.	Examiner: Michelle Linh-Giang Le
Serial No.:	09/689,842	Group Art Unit: 3626
Filed:	Oct 13, 2000	Docket No.: 100.020US1
Assignee:	Oneida Indian Nation	
Title:	SYSTEM, METHOD, AND ARTICLE OF MANUFACTURE FOR LOCATING AND COMMUNICATING WITH A PATRON AT A HOSPITALITY FACILITY	

REPLY BRIEF UNDER 37 CFR §41.41

MS Appeal Brief – Patents
Commissioner for Patents
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APPELLANT'S REPLY BRIEF

This Reply Brief is filed in response to the Examiner's Answer, mailed December 10, 2008. This Reply Brief supplements the Appeal Brief filed by Appellant on September 10, 2008. Please charge any required additional fees or credit overpayments to Deposit Account 50-3998.

ARGUMENT

The Appellant has reviewed the Examiner's Answer and believes the statements in the Appeal Brief remain accurate and compelling. In responding to the Examiner's Answer, Appellant provides the following discussion.

The Examiner relies on the combination of Lans and Chaung for every rejection. Appellant submits that the Examiner's combination is improper for at least three reasons: 1) the Examiner's motivation to combine references is flawed; 2) Lans teaches away from Chuang; and 3) Modifying Lans as per Chuang would render Lans' inoperable for its intended purpose. The following paragraphs will discuss each of the three reasons.

The Examiner's Motivation to Combine References Is Flawed

The Examiner asserts that one of ordinary skill in the art would modify Lans as per Chuang “with the motivation of allowing park visitors to search for the location, distance, and direction of other group members within a hospitality facility.”¹ The Examiner’s reason for modifying Lans as per Chuang is flawed. As the Examiner points-out in the Reply Brief, Chuang’s Abstract states:

The system also allows park visitors to search for the location, distance and direction within the park boundaries of all other members within the same group at any given time.²

Instead of using Chuang for its stated purpose, the Examiner asserts that one would go to the trouble of modifying Lans to come up with the claimed invention. However, if one of ordinary skill wanted to enable “park visitors to search for the location, distance, and direction of other group within a hospitality facility,” one would use Chuang’s system without modification. As a result, the Examiner’s reasoning would not serve to motivate one of ordinary skill to modify Lans based on Chuang.

Lans Teaches Away from Chuang

Appellant submits that Lans teaches away from Chuang. The following discussion will first explain Chuang and Lans. Next, the discussion will show how Lans would lead one of ordinary skill in the art away from Chuang.

Chuang’s system enables guests to find each other in an amusement park.³ Chuang’s system includes wireless devices and fixed (i.e., stationary) terrestrial beacons.⁴ If a guest wants to find a friend in a park, the guest uses a wireless device to ask the system to locate the friend’s wireless device.⁵ The system’s fixed beacons detect signals emanating from the friend’s device and determine the friend’s location. The system then relays the friend’s device location back to the guest.

¹ Examiner’s Answer at #3, pp. 4-5.

² The Examiner’s Answer cites Chuang’s Abstract at p. 5.

³ See Chuang at Abstract.

⁴ See Chuang at column 11, lines 47-66.

⁵ *Id.*

Lans teaches a system for tracking movable objects, such as airplanes. In contrast to Chuang, Lans' system does not rely on beacons for tracking aircraft. Lans' system uses "stations" that assist pilots in monitoring air traffic.⁶ Each station can determine its own position using GPS⁷ satellites and broadcast its position and identity over a radio channel.⁸ Each station receives broadcasts of other stations and stores the other stations' positions and identities.⁹ Each station can show locations of other stations on a map,¹⁰ and warn pilots about potential collisions.¹¹

Lans teaches away from beacon-based systems by praising its superiority over beacon-based systems like Chuang's. Lans states:

A further object for aviation purposes is to create a **better** possibility of distributing aircraft, in order to **increase the airspace capacity**, by **avoiding the necessity of the beacon infrastructure** through a distributed localization, each aircraft having its own means enabling it to follow any predetermined corridor or route, **which does not have to be materialized by common landbased hardware**. Particularly where beacon systems have not yet been installed, **great savings** are possible in this respect. Further, when routes may be defined which do not depend on a beacon system, **the number of routes may be increased practically at will**, and **it is possible to avoid present congestion** at least outside the neighbourhood of airports.¹²

Accordingly, Lans asserts that fixed beacons (like Chuang's) are costly, limit airspace capacity, limit available routes, and increase congestion. Appellant submits this teaches one of ordinary skill to look away from fixed beacon-based systems, such as Chuang's system.

The Examiner's Answer argues that Lans does not teach away from Chuang. The Examiner's Reply states:

Applicant argues that one object of the invention is to avoid the necessity of beacon infrastructure. However, Lans does not criticize, discredit or otherwise discourage retrieving patron and location identifiers.¹³

⁶ Lans at column 8, lines 27 *et seq.* and Figure 1.

⁷ The movable stations may use GPS alternatives, such as GLONASS. See *Id.* at column 1, lines 20-25.

⁸ See Lans at column 4, lines 7-34.

⁹ See Lans at column 4, lines 17-18 and column 9, lines 15-25.

¹⁰ See Lans. at column 4, lines 35-37 and column 7, lines 28-31.

¹¹ See Lans. at column 4, lines 37-40.

¹² Lans at column 3, lines 49-55. (Emphasis added.)

¹³ Examiner's Answer, pp. 9-10.

The Examiner ignores Lans' clear criticism of beacon-based systems. Lans criticism of beacon-based systems goes beyond a mere recitation of "one object of the invention." Lans provides a direct comparison between its system and beacon-based systems. As noted above, Lans decries beacon-based systems as being costly, limiting airspace capacity, limiting available routes, and increasing congestion. Because Lans criticizes beacon-based systems like Chuang's system, Lans teaches away from the Examiner's combination.

The Examiner's Combination Renders Lans Inoperable

In rejecting claim 1, the Examiner asserts that one would modify Lans to include claim 1's "receiving from another of the plurality of client terminals, a request for the location of the particular patron." However, the Examiner's modification would render Lans' system unfit for its intended purpose. According to Lans, "one advantageous feature" is that Lans' stations can detect potential aircraft collisions.¹⁴ In Lans, each station determines its own position using GPS¹⁵ satellites and broadcasts its position and identity over a broadcast radio channel.¹⁶ In turn, each station receives, over the broadcast channel, the other stations' positions and identities.¹⁷ Thus, each station knows the position of other stations in proximity. Because the stations receive position and identity information over the broadcast channel, the stations do not request location and identity information from each other.

If each station were modified to request location and identity information from other stations, each station would have to know the stations from which location and identity information is needed. If a first station were unaware of a second station, the first station would fail to request location and identity information from the second station. If the first and second stations come in close proximity, they may collide because they did not exchange location information. As the number and distribution of stations increases, so does the risk of collisions. Neither Lans nor the Examiner explain how the stations would determine which stations to query

¹⁴ See Lans at column 4, lines 37-38.

¹⁵ The movable stations may use GPS alternatives, such as GLONASS. See *Id.* at column 1, lines 20-25.

¹⁶ See Lans at column 4, lines 7-34.

¹⁷ See Lans at column 4, lines 17-18 and column 9, lines 15-25.

for location and identity information. Thus, the Examiner's modification would render Lans unfit for its intended purpose.

CONCLUSION

It is respectfully submitted that the claimed invention is not unpatentable in view of the cited art. It is respectfully submitted that claims 1-16, 30-45, 54-57 and 71-78 should therefore be allowed. Reversal of the Examiner's rejections of claims 1-16, 30-45, 54-57 and 71-78 is respectfully requested.

Respectfully submitted,
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